HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO. 1951 OF 2002

DATED: 16.10.2006

Between:

V. Jaydev

… Petitioner

and

The Deputy Commissioner of Labour and others

… Respondents

HON'BLE SRI JUSTICE GODA RAGHURAM

W.P.NO.1951 OF 2002

ORAL ORDER:

Heard the learned counsel for the petitioner, the learned Government Pleader for Labour for respondents 1 and 2 and Sri P. Nageswar Sree for the 3rd respondent.

The writ petition by the workman is directed against the order of the 2nd appellate authority dated 11.6.2001 allowing S.A.No.12 of 2000 preferred by the 3rd respondent against the order dated 1.11.1999 of the 2nd respondent-primary authority (under the A.P. Shops and Establishments Act, 1988: for short 'the Act') in S.E.No.6 of 1996.

The petitioner was terminated from service by the 3rd respondent herein on 24.11.1995 on allegations of misconduct. He preferred S.E.No.6 of 1996 under the Act before the 2nd respondent challenging the order of termination. The 2nd respondent by the order dated 1.11.1999 found the termination invalid and unsustainable and accordingly set aside the same. The 2nd respondent also concluded that the totality of the circumstances did not justify directing reinstatement of the petitioner in view of the strained relationship between the employer and employee and accordingly directed that in lieu of reinstatement, a compensation of Rs.30,000/- be paid by the 3rd respondent to the petitioner and that 1/4th back wages should also be awarded for the period the petitioner was out of service i.e. 24.11.1995 to 1.11.1999.

Aggrieved by the order of the 2nd respondent-primary authority, the 3rd respondent preferred a second appeal under Section 48 (3) of the Act to the 1st respondent. S.A.No.12 of 2000 was allowed and the 1st respondent modified the award of the 2nd respondent dated 1.11.1999 and rejected grant of 1/4th back wages to the petitioner and set aside that part of the order of the 2nd respondent. Aggrieved thereby, the workman is before this court.

The order of the 1st respondent interfering in S.A.No.12 of 2000 is unsustainable. The 1st respondent concurred with the 2nd respondent that the order of termination dated 24.11.1995 is illegal and unsustainable. None of the two authorities found the petitioner guilty of laches and delay in seeking the statutory remedies. None of the respondents 1 and 2 found any contributory errors of the petitioner for the infirmity in the disciplinary proceedings either.

In the circumstances, the well balanced order of the 2nd respondent granting 1/4th back wages to the petitioner from the 3rd respondent for the period the petitioner was out of service on account of the illegal termination order dated 24.11.1995 ought not to have been interfered with, but was.

For the aforesaid reasons, the order of the 1st respondent dated 11.6.2001 allowing S.A.No.12 of 2000 is set aside. The petitioner shall be entitled to the benefits in accordance with the orders of the 2nd respondent dated 1.11.1999.

The writ petition is allowed as above. No order as to costs.

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GODA RAGHURAM, J

Date: 16.10.2006
cvm